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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,402	07/02/2003	Michael Serhan	LA-7146-104US/10109564	4467

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/613,402		SERHAN, MICHAEL	
	Examiner		Art Unit	
	Christopher Bottorff		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-22 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,16,17 and 23 is/are rejected.
- 7) ☒ Claim(s) 2 and 7-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on July 2, 2003 was considered by the examiner.

Claim Objections

Claim 24 is objected to because of the following informalities: the limitation on line 31 reciting "an arc angle of about 114 degrees.," includes both a period and a comma. The period should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said rear seat" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim since the seat was not previously identified as being a rear seat. For the purposes of examination, the rear seat is interpreted as being only a seat without specifying its position to the front or rear of the walker.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. US 6,837,503 in view of Pickard US 5,451,193.

Chen discloses a wheeled walker having a pair of front legs 13 carrying front wheels 16 on their lower ends, a pair of back legs 15 carrying back wheels 16 on their lower ends, an upper front cross member 20 connecting the front legs, a rear cross member 21 connecting the rear legs, and a seat 24 carried by the upper front and rear cross members with the top surface of the seat at a predetermined height. See Figure 1.

A lower cross member 19 connects the front legs adjacent the lower ends of the front legs. The lower cross member 19 has an inverted "u" shape whereby a full size wheeled walker basket may be supported on the lower cross member. See Figure 1.

Chen further discloses a tubular seat back 30 formed with a pair of opposing downwardly directed tubular members. See Figures 1 and 3. The front legs are formed with respective opposing tubular receptors 40 for receiving the ends of the opposing members whereby to support the seat back. See Figures 1 and 3.

Chen does not disclose that the wheels are at least seven inches in diameter and particularly 8 inches in diameter, or that the top surface of the seat is less than 20 inches high, less than 19 inches high, and specifically between 18 and 18.5 inches.

However, Pickard teaches the desirability of providing a wheeled walker with wheels 18 that are at least seven inches in diameter. See Figure 2; column 2, lines 63-66; and column 4, lines 44-46; and note that Figure 2 suggests that the diameter of the wheels is approximately one half of the length of 33.5 inches, or approximately 16 inches in diameter. Pickard further teaches the desirability of providing a wheeled walker with a top surface of a seat 22 that is less than 19 inches high, and between 18 and 18.5 inches. See Figure 2 and column 4, lines 44-46, and note that Figure 2 suggests that the top surface of the seat is located at approximately one half the height of 36.6 inches, or approximately 18 inches.

From the teachings of Pickard, providing the wheels of Chen with a diameter of at least seven inches would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist an operator in moving the walker over difficult terrain. From the further teachings of Pickard, providing the top surface at a position less than 19 inches high, and between 18 and 18.5 inches, would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the seat in a position that is comfortable for sitting by a user.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. US 6,837,503 in view of Pickard US 5,451,193 as applied to claim 5 above, and further in view of Epstein US 6,378,883.

Although the lower cross bar of Chen may support a basket, Chen does not disclose that a basket is supported on the lower cross member. However, Epstein teaches the desirability of supporting a basket 36 on a lower cross member 26 of a walker. See Figure 1 and column 3, lines 13-19. From the teachings of Epstein, supporting a basket on the lower cross member of Chen would have been obvious to one of ordinary skill in the art at the time the invention was made. This would help distribute the weight of the basket to the frame of the walker, thereby relieving stress on the basket, and would help to hold the basket in position on the walker.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. US 6,837,503 in view of Pickard US 5,451,193 as applied to claim 1 above, and further in view of Peek et al. US 5,462,380.

Chen does not disclose the specific connector claimed. That is Chen does not disclose a first aperture adjacent the end of each of said opposing members, a lock and release member having a latch spring loaded to jut from the first aperture, receiving apertures in the opposing receptors, a second aperture spaced upwardly from said first aperture in each of said downwardly directed tubular members, a lever connected to the latch at one end and protruding from the second aperture at its other end, and a button

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connected to the protruding lever end whereby depressing the button releases the latch from its respective receptor.

However, Peek et al. teach the desirability of providing interconnecting tubes with the claimed type of connector. The connector taught by Peek et al. comprises a first aperture 20 adjacent the end of a tubular member 11, a lock and release member 19, 24 having a latch spring loaded to jut from the first aperture, a receiving aperture 21 in a tubular receptor 12, a second aperture 38 spaced upwardly from the first aperture, a lever 31 connected to the latch at one end and protruding from the second aperture at its other end, and a button 39 connected to the protruding lever end whereby depressing the button releases the latch from its respective receptor. See Figures 3 and 4. From the teachings of Peek et al., providing the walker of Chen with the claimed connector, rather than the disclosed connector at knob 50 of Chen, would have been obvious to one of ordinary skill in the art at the time the invention was made. This would utilize a connector that is easy to operate and provides a secure latch between the tubular members and tubular receptors.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. US 6,837,503 in view of Peek et al. US 5,462,380.

Chen discloses a pair of front legs 13 carrying front wheels 16 on their lower ends and a pair of back legs 15 carrying back wheels 16 on their lower ends.

Chen does not disclose the specific connector claimed. That is Chen does not disclose a first aperture adjacent the end of each of said opposing members, a lock and

release member having a latch spring loaded to jut from the first aperture, receiving apertures in the opposing receptors, a second aperture spaced upwardly from said first aperture in each of said downwardly directed tubular members, a lever connected to the latch at one end and protruding from the second aperture at its other end, and a button connected to the protruding lever end whereby depressing the button releases the latch from its respective receptor.

However, Peek et al. teach the desirability of providing interconnecting tubes with the claimed type of connector. The connector taught by Peek et al. comprises a first aperture 20 adjacent the end of a tubular member 11, a lock and release member 19, 24 having a latch spring loaded to jut from the first aperture, a receiving aperture 21 in a tubular receptor 12, a second aperture 38 spaced upwardly from the first aperture, a lever 31 connected to the latch at one end and protruding from the second aperture at its other end, and a button 39 connected to the protruding lever end whereby depressing the button releases the latch from its respective receptor. See Figures 3 and 4. From the teachings of Peek et al., providing the walker of Chen with the claimed connector, rather than the disclosed connector at knob 50 of Chen, would have been obvious to one of ordinary skill in the art at the time the invention was made. This would utilize a connector that is easy to operate and provides a secure latch between the tubular members and tubular receptors.

Allowable Subject Matter

Claims 18-22 and 24 are allowed. Claim 18 requires at least one spacer carried on the rear cross member formed of a material softer than the material of the rear cross member and claim 19 requires at least one spacer carried on the lower cross member formed of a material softer than the material of the lower cross member. However, the walkers of the prior art do not suggest providing such spacers on either the lower or rear cross members. Claim 20 requires the tubular seat back and cushion member to have an arc angle of about 110 to 120 degrees. Although tubular seat backs and cushion members are disclosed in the prior art, the prior art does not suggest providing them with a specific arc angle of 110 to 120 degrees. Claim 24 requires the spacers, the arc angle, an eight inch wheel diameter, a wire basket with hooks formed of wires that are thicker than the wires forming the basket, and a space of 8 inches between the bottom of the basket and the upper cross member. As noted above, the prior art does not suggest providing the claimed spacers or arc angle, and the prior art does not suggest providing wheels with a diameter of specifically 8 inches, the specific basket claimed, or the claimed spacing on the walker for accommodating the basket. Thus, these features, in combination with the further limitations of the claims, distinguishes the claimed invention over the prior art

Claims 2 and 7-15 recite the distinguishing features discussed above. Consequently, claims 7-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion



The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ahlberg et al., Luo, Liljedahl, Che, Howle, Chen US 6,318,392, Owens, Sung, Hara et al., Wu, Hallgrimsson et al. US 6,651,994, Hallgrimsson et al. US 6,659,478, and van't Schip disclose wheeled walkers. Yang and Stephenson et al. disclose latch spring connectors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Bottorff can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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